

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

In re:)	CASE NO: 10-54243
)	Chapter 13
Walter Lamont Gibson, Sr.)	
)	
Lisa Ray-Shun Gibson)	
)	
Debtor(s).)	Judge Marilyn Shea-Stonum
)	
		<u>MOTION TO AVOID JUD- ICIAL LIEN OR, ALTERN- ATIVELY, FOR A DEC- LARATION THAT NO JUDICIAL LIEN EXISTS</u>
		<u>J 97 0308</u>

Now comes the above-captioned debtor, Walter Lamont Gibson, Sr., who states the following:

1. This case was commenced as a case under chapter 13, title 11 U.S.C. on September 7, 2010.
2. As of the commencement of the case, the debtor owned and still owns real estate located at 1241 Sparhawk Ave., Akron, Ohio.
3. The debtor acquired possession of this real estate by way of a warranty deed dated September 26, 2006 and filed for record with the Summit County, Ohio recorder on September 27, 2006.
4. The debtor filed a voluntary petition under chapter 7, title 11 U.S.C. on April 26, 2004 and was granted a discharge by this Court on August 30, 2004 in a case designated in the records of this Court as case number 04-52211.
5. On June 27, 1994, Allstate Insurance Company and Shirley Bogard obtained a judgment against the debtor in the Akron Municipal Court in a case designated as case number 94 CVE 3520. The amount of this judgment was for \$3,978.52 plus interest at the rate of 10% per annum from June 27, 1994. On January 23, 1997, Allstate Insurance Company and Shirley Bogard filed with the Clerk of the Court of Summit County, Ohio

Common Pleas a certificate of judgment.

6. The debtor states that because his personal liability to Allstate Insurance Company and Shirley Bogard was discharged by his 2004 bankruptcy and because the debtor did not acquire title to his real estate until 2006 (after the entry of the discharge order), the aforementioned certificate of judgment does not create a lien that encumbers this real estate.

7. The debtor's real estate referred to above, according to the appraisal of the Summit County, Ohio Fiscal Officer, a copy of which is attached hereto as Exhibit "A," has a value of \$74,710.00. This real estate is subject to a purchase-money mortgage owed by the debtor to Suntrust Mortgage upon which the debtor owes an approximate principal balance of \$102,969.98. The debtor has claimed a homestead exemption of \$20,200.00 in this real estate pursuant to Ohio Rev. Code. Sec. 2329.66(A)(1). The debtor alternatively states, therefore, that in the event the Court were to determine for some reason that Allstate Insurance Company and Shirley Bogard hold a valid judicial lien that encumbers the debtor's real estate, this lien impairs the debtor's homestead exemption and therefore is avoidable by the debtor pursuant to 11 U.S.C. Sec. 522(f).

WHEREFORE, the debtor prays for the entry of an order determining that the filing of the above-referenced certificate of judgment in favor of Allstate Insurance Company and Shirley Bogard did not create a judicial lien that encumbers the debtor's residential real estate. Alternatively, the debtor prays for the entry of an order cancelling and avoiding the alleged judicial lien pursuant to 11 U.S.C. Sec. 522(f) and declaring the same to be null, void and without any legal effect whatsoever.

Respectfully Submitted,

/s/ Robert M. Whittington, Jr. 0007851
159 S. Main St., Suite 1023
Akron, OH 44308
330 384 8484
fax 330 384 8953
elkwhitt@neo.rr.com

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

In re:)	CASE NO: 10-54243
)	Chapter 13
Walter Lamont Gibson, Sr.)	Judge Marilyn Shea-Stonum
Lisa Ray-Shun Gibson)	<u>NOTICE OF MOTION TO AVOID</u> <u>LIEN OR, ALTERNATIVELY,</u> <u>FOR DECLARATION THAT NO</u> <u>JUDICIAL LIEN EXISTS</u>

Debtors.

The debtors have filed papers with the Court to avoid a lien or, alternatively, to obtain a declaration that no judicial lien exists.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one).

If you do not want the Court to grant the motion, or if you want the Court to consider your views on the motion, then on or before September 22, 2010, you or your attorney must file with the Court a written request for a hearing and a written answer explaining your position at the office of the Clerk of the Bankruptcy Court, room 455, U.S. Courthouse, 2 S. Main Street, Akron, Ohio 44308. If you mail your request to the Court for filing, you must mail it early enough so that the Court will **receive** it on or before the date stated above.

You must also mail a copy to:

Robert M. Whittington, Jr., 1023 Key Bldg., 159 S. Main Street, Akron, OH
44308

Keith Rucinski, chapter 13 trustee, I Cascade Plaza, #2020, Akron, OH 44308

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

DATE: September 7, 2010

Robert M. Whittington, Jr., 0007851
Attorney for the Debtor(s)
1023 Key Bldg.
159 S. Main St.
Akron, OH 44308
(330) 384-8484

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing motion and notice were sent by ordinary U.S. Mail, postage prepaid, this 7th day of September, 2010 to:

Allstate Corporation
Attn: General Counsel
2775 Sanders Rd. Suite F 8
Northbrook, IL 60062-6127

Allstate Insurance
P.O. Box 3073
Southeastern, PA 19398-3073

Shirley Bogard
878 Caddo
Akron, OH 44305

and by electronic ECF notice to Keith Rucinski, chapter 13 trustee and to the U.S. Trustee.

/s/ Robert M. Whittington, Jr.

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS that, **Rachael L. Cruz** ~~htta~~ **Rachael L. Kerr, A Married Woman**, Grantor(s), for valuable consideration paid, grant, with general warranty covenants, to **Walter L. Gibson, Sr. and Lisa R. Weber**, Grantee(s) whose tax mailing address is **1241 Sparhawk Avenue, Akron, OH 44305** the following real property.

Situated in the City of Akron, County of Summit and State of Ohio: And known as being a part of Lot 6, Tract 9, formerly Tallmadge Township and described as follows: Being at a iron pipe at the Northwest corner of Eastland Allotment No. 5 as recorded in Plat Book 22, Page 70 of Summit County Records; Thence N. 3° 40' E. 1045.46 to an iron pipe at the Northwest corner of the Sparhawk Allotment proposed, which point is also the Southerly line of the Erie R.R. right of way; thence N. 77° 30' 40" E., along the Southerly line of the Erie R.R. right of way 408.64 feet to the true place of beginning, continuing N. 77° 30' 40" East 50 feet to a point; thence S. 12° 29' 20" E., 200 feet to the N. line of Sparhawk Avenue proposed; thence S. 77° 30' 40" West 50 feet to a point; thence N. 12° 29' 20" W. 200 feet to the true place of beginning, known as Sub 28 Sparhawk unrecorded.

Description approved by Tax Maps

Approval good for 30 days from

2/13/33 *AW* 9.27.06

Instrument Reference: 54876454

PM No.: 68-40631

PPN: 02-01333-03-007.000

Also known as being **1241 Sparhawk Avenue, Akron, OH 44305**

The Property is conveyed subject to, and there are hereby excepted from the general warranty covenants, the following:

- (i) All easements, rights-of-way, restrictions, covenants, reservations, and encumbrances of record;
- (ii) All legal highways;
- (iii) Building and zoning statutes, ordinances, codes, rules, and regulations;
- (iv) Real estate taxes and assessments both general and special, which are a lien not yet due and payable and which have been prorated through the date of closing.

✓ **FIRST SECURITY TITLE CORPORATION**

ORDER NO. 23537


John A Donofrio, Summit Fiscal Officer

55371730
Pg: 1 of 2
09/27/2006 02:52p
DE 28.00

AND FOR VALUABLE CONSIDERATION, **Sergio Cruz, Jr.** does hereby remise, release and forever quit-claim unto the said Grantee, his heirs and assigns, all her right and expectancy of Dower in the above-described premises.

EXECUTED this 26th day of SEPTEMBER, 2006.

Rachael L. Cruz

Rachael L. Cruz

Sergio Cruz, Jr.

Sergio Cruz, Jr.

20531

TRANSFERRED IN COMPLIANCE WITH
SEC.319.202 REV. CODE
\$12,000.00 368.00 FEE

Consideration

JOHN A. DONOFRIO
Fiscal Officer

By JML
Deputy Fiscal Officer

State of Ohio)

) ss

County of Summit)

No. of pages 2

JOHN A. DONOFRIO
FISCAL OFFICER
COUNTY OF SUMMIT

2006 SEP 27 PM 2:16

TRANSFERRED

Before me, a notary public in and for said County and State, personally appeared the above named, **Rachel L. Cruz and Sergio Cruz, Jr., Wife and Husband**, Grantor(s), who acknowledged that he/she/they did sign the foregoing instrument and that the same is his/her/their free act and deed.

In Testimony Whereof, I have hereunto set my hand and official seal, at

Avon, OH, this 26th day of SEPTEMBER, 2006

[Signature]
Notary Public

Instrument Prepared By:
Andrea L. Norris, Attorney at Law



RICHARD P. LOWRY, Notary Pub.
Residence-Summit County
State Wide Jurisdiction, Ohio
Notary Expires January 11, 2010

[Barcode]
John A Donofrio, Summit Fiscal Officer

55371730
Pg: 2 of 2
09/27/2006 02:52P
DE 28.00

EXHIBIT 'A'

Print

Pay by Phone

Pay On-Line

John A. Donofrio

Fiscal Officer, County of Summit

Note: This is a live file and is subject to constant change.

Print**IAS4 - INTEGRATED ASSESSMENT SYSTEM REVIEW DOCUMENT**

Summit County Auditor Division, OH - Tax Year 2009

Reference Year

AUG 23, 2010

04:09 PM

BASIC INFORMATION FOR PARCEL 6840631

PARCEL	6840631	ALT_ID	020133303007000	NO CARDS	1
OWNER	GIBSON WALTER L SR & WEBER LISA R			INFO	
OWNER				---LISTER---	
DESC.	TR 9 LOT 6 SUB 28 SPARHAWK LESS STSPARHAWK AVE			560	05-SEP-06
DESC.				RENTAL REG	
DESC.	LUC 510 R - SINGLE FAMILY DWELLING, PLATTED				
ADDR.	1241 SPARHAWK AVE , AKRON 44305-			VAC/ABAND	
SPEC FLAG				NBR	30100155
HOMESTEAD	No			2.5% REDUCTION	Yes
DISTRICT	68 AKRON CITY-AKRON CSD			INTER-COUNTY	77-0530

LAND FOR PARCEL 6840631

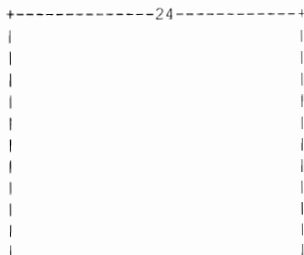
CODE	ACTUAL	BASE	DEPTH	UNIT	DEP/FAC	INCR/DECR	INFLUENCE	INFLU%	VALUE
01	50	50	200	325	1.13	160/160			18360

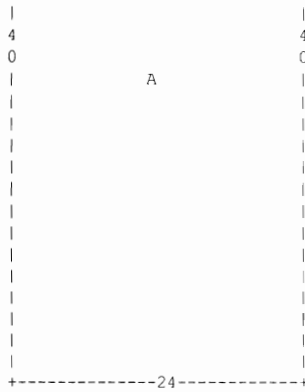
LOT CODE: 01 = HOUSE LOT

RESIDENTIAL CARD 1 OF 1 FOR PARCEL 6840631

STYHT	1	HT/AC	CENTRAL
CONST	ALUMINUM/VINYL	FUEL	GAS
MSRY TRIM		SYSTEM	
TYPE	RANCH	ATTIC	NO
YR BUILT	1982	FINBSMT	
EFF YR		REC RM	
YRREMDLD		FRP PREFB	
TOT RM	5	FRPL OP/ST	
BEDRM	3	BSMT GAR	
FAMLYRM		PHYSICAL	83
FULL/BTH	1	FUNC DEP	
HALF/BTH		FUNC RSN	
TOT FIXTRS	5	ECON DEP	
BSMT	FULL	ECON RSN	
GFLA	960	GRADE	070
SFLA	960	COND (CDU)	GOOD
		PCT CMPL	(100%)

DESCRIPTION: RANCH ALUMINUM/VINYL 1 STORY WITH 960 SQ FT GROUND FLOOR LIVING AREA AND 960 TOTAL SQ FT LIVING AREA, BUILT ABOUT 1982. IT HAS 5 TOTAL ROOMS WITH 3 BEDROOMS, 1 FULL BATHROOM, A FULL BASEMENT, HEATING IS CENTRAL AND THE OVERALL CONDITION IS GOOD.



**SUMMARY ALL CARDS FOR PARCEL 6840631**

LAND:	18360	BUILDING:	56350	TOTAL:	74710
ASSESSED LAND:	6430	ASSESSED BLDG:	19720	ASSESSED TOTAL:	26150

SALES INFORMATION FOR PARCEL 6840631

DATE	DOC#	GRANTOR	AMT	SALE	DESC	PARCELS
27-SEP-06	20531	KERR RACHAEL L	92000	1	VALID	1
22-MAY-03	9890	CHAPPELL DELORES J	80000	1	VALID	1
11-DEC-01	25147	CHAPPELL JAMES R & DELORES J	10000	2	Rel/Bus	1
29-OCT-93		LI ELLEN & PAUL C	37600			0

Print

Pay by Phone

Pay On-Line

2009 SUMMARY INFORMATION FOR PARCEL 6840631

MAILING ADDRESS	LUC	510
GIBSON WALTER L SR & WEBER LISA R	CLASS	R
1241 SPARHAWK AVE	2.5%	Y
AKRON, OH 44305	HMSTD	N
APPRAISED VALUE 74,710	CAUV	N
TAXABLE VALUE 26,150	FOREST	N
BANK CODE 00942 VALUTRIE REAL ESTATE SERVICES	STUB	68011738
TREAS CODE	CERT YEAR	N
CUR YR REFUND	DELQ CONTRACT	N
PRI YR REFUND	BANKRUPTCY	N
MONEY IN ESCROW	FORECLOSURE	N
MONEY IN PRETAX		

Beginning Tax Duplicate

Where Do My Tax Dollars Go? Voter Approved Levy Tax

	First Half Charges	Second Half Charges
Realestate	764.49	764.49
Special Assessment	27.28	27.28
Total	791.77	791.77
Due Date	FEB 19, 2010	JUL 16, 2010

Total Tax Amount Due Reflects Payment & Adjustment To Date

	1st HALF	2nd HALF
TOTAL REAL ESTATE AND SPECIAL CHARGES	0.00	791.77
P & I & ADJ	0.00	0.00
PAYMENTS	0.00	-791.77

AMOUNT DUE	0.00	0.00	0.00
YEARLY AMOUNT DUE:			0.00

2009 TAX BILL DETAILS FOR PARCEL 6840631

DATE	SETTLE #	PROJ.	ACTION / CODE	1st HALF	2nd HALF
04-JAN-10	1		DUP/ORG	1284.25	1284.25
04-JAN-10	1		DUP/RED	-410.55	-410.55
04-JAN-10	1		DUP/ADJ	873.70	873.70
04-JAN-10	1		DUP/RLB	-87.37	0.00
04-JAN-10	T		DUP/RLB	0.00	-87.37
04-JAN-10	T		DUP/HRB	0.00	-21.84
04-JAN-10	1		DUP/HRB	-21.84	0.00
04-JAN-10	1	346768	DUP/SAC	26.23	26.23
04-JAN-10	1	346768	DUP/SAF	1.05	1.05
08-FEB-10	1	346768	PAY/SAC	-26.23	0.00
08-FEB-10	1	346768	PAY/SAF	-1.05	0.00
08-FEB-10	1		PAY/CHG	-764.49	0.00
06-JUL-10	T	346768	PAY/SAC	0.00	-26.23
06-JUL-10	T	346768	PAY/SAF	0.00	-1.05
06-JUL-10	T		PAY/CHG	0.00	-764.49

DELQ REAL ESTATE & ASSESSMENT TAX:	0.00
ADJUSTMENT:	0.00
DECEMBER INTEREST:	0.00
AUGUST INTEREST:	0.00

TOTAL	0.00
--------------	-------------

REAL ESTATE CHARGES:	764.49	764.49
SPECIAL ASSESSMENT CHARGES:	27.28	27.28
ADJUSTMENT:	0.00	0.00
TOTAL CHARGES:	791.77	791.77

PAYMENTS:	DATE	TYPE		
	08-FEB-10	NML	-791.77	
	06-JUL-10	NML		-791.77
TOTAL PAYMENTS:			-791.77	-791.77

FH/SH AMOUNT DUE:	0.00	0.00
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SPECIAL ASSESSMENT:

PROJECTNAME	END	1st HALF	2nd HALF
346768 M03 ST LTG/SWP-9999	9999	27.28	27.28

GENERAL INFORMATION

JOHN A. DONOFRIO
FISCAL OFFICER, COUNTY OF SUMMIT
175 SOUTH MAIN ST.
AKRON, OHIO 44308

PLEASE DIRECT INQUIRIES CONCERNING PROPERTY VALUES TO

(330)-643-2645
(330)-643-2710
(330)-643-2661
(330)-643-2638

SPECIAL ASSESSMENTS
APPRAISAL INFORMATION
HOMESTEAD
GENERAL REAL ESTATE

PLEASE DIRECT INQUIRIES ABOUT YOUR TAX BILL INFORMATION TO

(330)-643-2867
(330)-643-2600
(330)-643-2587
(330)-643-2589

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MONTHLY DELINQUENT CONTRACT PROGRAM
TAX BILL MAILING INFORMATION
PAYMENT INFORMATION

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